

§ 376. Time and Place of Hearing.

(a) Appeals shall be heard promptly.

(b) Appeals relating to a special order, order to take special action, the reasonableness of the abatement period and an expedited proceeding shall be given priority over other proceedings.

(c) In cases being reviewed by the Bureau of Investigations, unless the employer **and the Division** submits a written request **agreeing** that its **the** appeal go forward in the normal course, the Appeals Board shall delay the hearing until the conclusion of a review of the case by the Bureau of Investigations or for a period not exceeding ~~2 years~~ **the statute of limitations for criminal charges**, whichever occurs earlier. **Where a District Attorney has received a request from the Division to review a Bureau of Investigations report, or where the District Attorney has initiated an investigation on its own, or where criminal charges have been filed, the Appeals Board shall delay the hearing until resolution of the criminal matter by the District Attorney.** ~~The period may be extended beyond 2 years at a party's request if necessary to allow the Bureau of Investigations to conclude its review of the case or the District Attorney to conclude its criminal proceedings.~~

(d) The Appeals Board shall set the place of the hearing at a location as near as practicable to the place of employment where the violation is alleged to have occurred.

(e) In cases where a fatality or serious injury or illness has occurred, the hearing location shall be located within 50 miles or an hour of the incident, whichever is shorter. Hearings shall be held at Division district offices or the nearest suitable state facility.

(f) (1) No administrative law judge shall be scheduled to hear two or more hearings on the same day unless the cases involve the same parties and witnesses, except under the following circumstances:

(A) The Board may schedule a hearing in the morning and another hearing in the afternoon if it is anticipated that the hearings will be able to be completed in four hours or less.

(B) The Board may schedule an additional hearing before an administrative law judge on a given day so long as each hearing arises from a different District of the Division of Occupational Safety and Health.

(C) If two or more cases are scheduled to be heard before the same administrative law judge on the same day, all parties shall be notified in writing as soon as possible after the hearing is set, and at least one week before the hearing date. The administrative law judge shall initiate a status conference which shall include all parties from the conflicting hearings to determine the time each hearing is to commence.

(2) If a party believes that a hearing scheduled to be heard during a morning or afternoon or on a full day will not be completed in the time allotted, the party shall promptly so notify the administrative law judge assigned to the case. The judge shall schedule a conference call for the parties to determine whether additional time on consecutive days shall be set aside for the conduct of the hearing. If after the hearing begins, it becomes apparent that additional time is required to complete the hearing, the administrative law judge will confer with the parties to schedule a further hearing date, the hearing date for which will occur as soon as possible and consistent with the schedules of the parties and the judge.